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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

10415 COMMERCE LLC,

Plaintiff and Respondent,

v.

HRATCHIA BARDAKJIAN,

Defendant and Appellant.

B282433

(Los Angeles County  
Super. Ct. No. BC469194)

APPEAL from a judgment of the Superior Court of Los Angeles County, Laura Matz, Judge. Affirmed.

Fernald Law Group and Brandon Claus Fernald for Defendant and Appellant.

Law Offices of David S. Fisher and David Fisher for Plaintiff and Respondent.

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Plaintiff 10415 Commerce LLC sued defendant Hratchia Bardakjian for fraudulent conveyance and other causes of action based on his conversion of the LLC's assets. Defendant successfully moved to compel arbitration of the dispute. He now appeals the resulting judgment after the trial court confirmed the arbitration award and denied his motion to vacate the award. His only contention on appeal is that the trial court erred when it denied his motion seeking "clarification regarding the scope of arbitration, [and to] re-examine the issue of arbitrability." We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

This is one of several related lawsuits between the same parties, and involving other parties, related to real estate investments in which there are claims of fraudulent transfer and other misconduct. The lawsuits were filed in 2008, 2010, and 2011, in several different courts in Los Angeles County. At the time this action was filed in 2011, some of the cases were pending, and others had concluded in judgments.

Here, plaintiff sued defendant and Koko Polosajian, alleging fraudulent conveyance, conversion, and other causes of action. The complaint alleged defendant and Arman Yegiyants were the cofounders and sole members of plaintiff LLC. They formed the LLC to acquire real property located at 10415 Commerce Avenue in Tujunga. The LLC also acquired property located at 703 E. Angeleno Avenue in Burbank, with the goal of developing the properties into condominiums. The complaint alleged in July 2008, defendant caused the LLC's real properties and development funds to be transferred to himself with the help of Polosajian and others.

The LLC's operating agreement required arbitration of disputes relating to performance of the agreement. After plaintiff commenced this lawsuit, defendant moved to compel arbitration of the dispute and stay the lawsuit. On May 25, 2012, the trial court granted the motion. Plaintiff and defendant submitted their dispute to Judicate West.

Although the case was stayed, in March 2013, plaintiff named additional defendants previously sued as Does, including defendant's brother, two other individuals and a corporation.

In July 2013, after the case was submitted to arbitration, plaintiff and one of the new defendants added in this lawsuit filed a "demand for arbitration" with Judicate West, seeking to bring all the defendants named in the complaint into the arbitration, and to expand the scope of the arbitration to include disputes concerning a third property located at 707 E. Angeleno Avenue in Burbank.

Also, in June 2014, one of the newly added defendants filed his own lawsuit against defendant and his brother, alleging they recorded fraudulent deeds of trust against the properties located at 703 and 707 E. Angeleno Avenue in Burbank. The conduct complained of in the new action occurred three to four years after the fraudulent conveyance alleged in this action.

In September 2014, defendant moved ex parte for the trial court to "clarif[y] . . . the scope of arbitration" and "re-examine the issue of arbitrability." The motion requested a stay of the arbitration so that the "scope of the [a]rbitration and [a]rbitrability" could be "revisited." Defendant argued plaintiff violated the court's order for arbitration by including third parties in its claim for arbitration, and by filing a new lawsuit.

The court denied the motion. The court found no clarification was required; it had clearly ordered the dispute between plaintiff and defendant to be arbitrated, and clearly ordered the action was stayed as to all other defendants.

The court noted it had never found that any of the other parties named in the arbitration claim were parties to the arbitration agreement. The court reasoned that the other parties “may agree to waive their right to a jury trial and to be bound by an arbitration, should they desire to do so. Whether it was appropriate to include them as respondents in the arbitration should be determined by the arbitrator where the offending document was filed, not this court. The court is not in possession of any facts which would allow it to determine whether they have agreed to participate in arbitration or whether it would be appropriate to order them to participate. [¶] To the extent that this is a motion to stay the arbitration due to the newly filed case, it is denied. The new case appears to complain of acts it is alleged [defendant] took after he purportedly engaged in the acts alleged in the instant matter and would not affect the decision to be made in the arbitration or in this matter.”

The arbitration commenced on August 24, 2015, and the arbitrator issued an award on April 26, 2016. The arbitrator found that defendant defrauded the LLC of its assets, that his conduct was so egregious that punitive damages should be assessed, and that plaintiff was entitled to its costs and attorney fees as the prevailing party. The arbitrator ordered defendant to reconvey the properties at 703 and 707 E. Angeleno Avenue to the plaintiff LLC.

Defendant moved to vacate the award, and plaintiff moved to confirm the award. Some months later, the arbitrator issued

two further awards, one for punitive damages, and the other awarding attorney fees and costs. Plaintiff filed an amended petition to confirm the two later awards. Defendant again moved to vacate the two later awards. The court confirmed the awards, denied the motion to vacate, and entered judgment in favor of plaintiff.

Defendant timely appealed.<sup>1</sup>

### **DISCUSSION**

The only claim on appeal is that the trial court erred by not reconsidering its order that the parties arbitrate their dispute. Defendant contends his motion should have been construed as a motion for reconsideration of the order compelling arbitration, and the court failed to exercise its discretion to reconsider its prior ruling.

We are not persuaded that defendant's motion sought reconsideration of the court's order compelling arbitration. The motion sought the trial court's interference with a claim that had been submitted to arbitration. "When it has been determined that arbitration should be pursued and all judicial proceedings have been suspended until completion of the arbitration, it would be wholly incompatible with established policies of the law to permit the court thereafter to intervene in, and necessarily to interfere with, the arbitration ordered." (*Briggs v. Resolution Remedies* (2008) 168 Cal.App.4th 1395, 1400-1401.)

After the court compelled arbitration of this dispute, if new parties were joined in the arbitration, that was not anything the

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<sup>1</sup> Defendant filed two notices of appeal; one from the order denying his petition to vacate the arbitration award, and another from the resulting judgment. His appeals were consolidated for the purposes of briefing, oral argument, and decision.

trial court ordered; it was for the arbitrator to decide if new claims against new parties were arbitrable. As the trial court correctly concluded, it was for the arbitrator, not the court, to decide the scope of the arbitration. (*Titan/Value Equities Group, Inc. v. Superior Court* (1994) 29 Cal.App.4th 482, 489 [“The trial court may not step into a case submitted to arbitration and tell the arbitrator what to do and when to do it: it may not resolve procedural questions, order discovery, determine the status of claims before the arbitrator or set the case for trial because of a party’s alleged dilatory conduct. It is for the arbitrator, and not the court, to resolve such questions.”].)

To the extent that defendant sought a stay of the pending arbitration under Code of Civil Procedure section 1281.2, subdivision (c), based on the subsequent filing of a new lawsuit by a third party to this lawsuit, we find no abuse of discretion. (*Henry v. Alcove Investment, Inc.* (1991) 233 Cal.App.3d 94, 101 [abuse of discretion standard of review].) Section 1281.2, subdivision (c) “allows the trial court to stay arbitration proceedings while the concurrent lawsuit [with a third party] proceeds *or* stay the lawsuit while arbitration proceeds to avoid conflicting rulings on common issues of fact and law amongst interrelated parties.” (*Cronus Investments, Inc. v. Concierge Services* (2005) 35 Cal.4th 376, 393.) Here, the trial court correctly found there was no risk of inconsistent rulings, as the conduct at issue in the later-filed lawsuit involved events that occurred after the events involved in this lawsuit that was sent to arbitration, and also involved new and different parties and a new and different property. Defendant has not demonstrated that there has been any judgment or ruling in the later-filed lawsuit that is inconsistent with the judgment affirming the

arbitration award. Moreover, defendant confirmed at oral argument that the later-filed action had in fact been stayed.

**DISPOSITION**

The judgment is affirmed. Respondent is awarded its costs on appeal.

GRIMES, Acting P. J.

WE CONCUR:

STRATTON, J.

WILEY, J.